

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GREEN PARTY OF NEW YORK STATE, et al.,

Plaintiffs,

-against-

ORDER
02-CV-6465 (JG)

NEW YORK STATE BOARD OF ELECTIONS,
NEW YORK CITY BOARD OF ELECTIONS, et al.,

Defendants.

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JOHN GLEESON, United States District Judge:

Plaintiffs, including the Green Party of New York, sought a temporary restraining order and a preliminary injunction preventing the State Board of Elections and the county Boards of Elections from enforcing N.Y. Elec. Law § 5-302.1. They want: (1) the State Board of Elections to allow voters to continue to register with the Green Party when voters register to vote; and (2) the county Boards of Elections not to wipe out the party enrollment status of voters who have registered as Green Party voters.

At a hearing on December 12, 2002, I found that plaintiffs had met the standard for preliminary injunctive relief and issued a temporary restraining order on their behalf. Following the inquiry demanded by Burdick v. Takushi, 504 U.S. 428 (1992) and Schulz v. Williams, 44 F.3d 48 (2d Cir. 1994), I concluded that plaintiffs had convincingly alleged that the law imposed a severe burden on their First and Fourteenth Amendment rights to associate and express their political beliefs, and that the State's purported interests in protecting Green Party candidates and the more-established political parties were neither compelling nor reasonable.

Given that the harm was to take effect on December 13, 2002, plaintiffs had therefore demonstrated an irreparable injury and a likelihood of success on the merits. Bery v. City of New York, 97 F.3d 689, 693-94 (2d Cir. 1996).

For these reasons and those I stated on the record on December 12, 2002, the plaintiffs' motion for a temporary restraining order is granted, and a hearing on their preliminary injunction is set for January 16, 2002.

So Ordered.



JOHN GLEESON, U.S.D.J.

DATED: December 17, 2002
Brooklyn, New York